

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF NEW YORK

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ARCH SPECIALTY INSURANCE COMPANY,

Plaintiff,

-against-

ELLAS HEATING AND COOLING INC.,

Defendant.  
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ROSLYNN R. MAUSKOPF, Chief United States District Judge:

**ORDER ADOPTING REPORT  
AND RECOMMENDATION**  
19-CV-3314 (RRM) (SMG)

On June 4, 2019, plaintiff Arch Specialty Insurance Company commenced this diversity action against defendant Ellas Heating and Cooling Inc., principally alleging breach of contract. After defendant failed to answer or otherwise respond to the complaint, plaintiff obtained a certificate of default from the Clerk of Court and filed a motion for default judgment pursuant to Rule 55(b)(2) of the Federal Rules of Civil Procedure. The Court referred that motion to Magistrate Judge Steven M. Gold for a report and recommendation.

On July 13, 2020, Judge Gold issued his report and recommendation (the “R&R”) (Doc. No. 18). That R&R recommends that plaintiff be awarded:

1. \$28,726.70 in damages on its breach of contract claim under the settlement agreement for the 2016–2017 policy, together with interest on the amount due at the rate of 12% per year, compounded daily, from the date of the premium audit on April 6, 2017, until the date of defendant’s final and complete payment of the outstanding amount and all required interest;
2. \$79,108 in damages on its breach of contract claim under the 2017–2018 policy, together with the New York Surplus Lines Tax and the New York State Stamping Fee totaling \$3,006.11, and pre-judgment interest at a rate of nine percent per annum on the total amount of \$82,114.11 calculated from December 16, 2017, until the date judgment is entered;

3. post-judgment interest on the damages awarded under paragraph [2, above], at the statutorily prescribed rate from the date judgment is entered until the date the judgment is paid; and
4. \$440.00 in costs.

(R&R at 10–11.) The R&R expressly advised the parties that any objections to the R&R had to “be made within fourteen days after filing of this Report and Recommendation and, in any event, on or before July 27, 2020.” (R&R at 11.)

Per Judge Gold’s directions, plaintiff served a copy of the R&R on defendant at its last known address on July 14, 2020. To date, neither party has filed any objections. Accordingly, pursuant to 28 U.S.C. § 636(b) and Rule 72 of the Federal Rules of Civil Procedure, the Court has reviewed the R&R for clear error and, finding none, adopts the R&R in its entirety. *See Covey v. Simonton*, 481 F. Supp. 2d 224, 226 (E.D.N.Y. 2007). The Clerk of Court is respectfully ordered to enter judgment in favor of plaintiff as recommended by Judge Gold; to mail a copy of that judgment and this Order to defendant at its last known address: 87-11 123<sup>rd</sup> Street, Jamaica, New York 11418; to note that mailing on the docket; and to close this case.

SO ORDERED.

Dated: Brooklyn, New York  
September 29, 2020

*Roslynn R. Mauskopf*

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ROSLYNN R. MAUSKOPF  
Chief United States District Judge